IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8826 OF 2003
WITH
WRIT PETITION NO. 8832 OF 2003.

Bhujgonda Devgonda Patil since deceased
LRS Smt.Chandrabai Bhujgonda Patil & Ors. . .... Petitioners
V/s
The State of Maharashtra & Ors... .....
Respondents.

Mr.T.S.Ingle with Ms.S.Y.Mohite, Adv. For the petitioners.

Mr.S.R.Nargolkar, AGP for Respondent Nos. 1 to 4.

CORAM: V.G. PALSHIKAR
AND
V.R.KINGAONKAR, JJ.
24.4.2006.

PC:

By these petitions petitioner has challenged the award passed in Land Acquisition Proceedings on 19.11.1986. The petition was filed in that very year and it was dismissed by this Court against which Special Leave was preferred and the matter was heard by the Supreme Court and by an order dated 1.12.1998 the appeals were partly allowed and matters were remanded back to the Commissioner for considerastion on factual contentions. Accordingly the matter was considered by the Divisional Commissioner and an order was passed on 20.9.2003 rejecting the application of the petitioner under section 48(1) of the Land Acquisition Act. It is this order which is impugned in these petitions.

2. All contentions raised pertain to correctness of the order on appreciation of documentary evidence on record. The documents were noticed by the Commissioner and were rejected as according to him, though the documents existed, the factual partition as claimed by the petitioner was

not acted upon. This is clearly finding of fact given by the Commissioner on appreciation of the evidence on record and therefore cannot be interfered with by this Court in exercise of its writ jurisdiction. On this ground alone the petitions are liable to be dismissed.

3. Apart from that the award was made in the year 1988 and thereafter no writ petition challenging such award is tenable. This is the view of the Supreme Court taken in the case of ***Municipal Council, Ahmednagar*** V/s ***Shah Hyder Beig,*** AIR 2000 671. In para 17 the Supreme Court has categorically observed as under :

> "17. In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This has been the consistent view taken by this Court and in one of recent cases."

4. The order of the Supreme Court remanding the matter was passed in December, 1998 and this judgment is of the year 2000. It is subsequent declaration of law by the Supreme Court of India and therefore binding on us. Relying on these observations therefore these petitions are not tenable. Viewed from any point there is no substance in these petitions and same are dismissed.